

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 17-cr-20601

Hon. Matthew F. Leitman

vs.

BRETT J. YENIOR,

Defendant.

PRELIMINARY ORDER OF FORFEITURE

On September 8, 2017 an Information was filed in the United States District Court for the Eastern District of Michigan, which charged Defendant Brett J. Yenior in Count One with Possession of Child Pornography in violation of 18 U.S.C. § 2252A(a)(5).

The Information contains Forfeiture Allegations providing notice that upon conviction of one or more of the charged offenses, Defendant Brett J. Yenior shall forfeit to the United States, pursuant to 18 U.S.C. § 2253(a)(3),

- i. Any visual depiction described in Title 18, United States Code, Sections 2251, 2251A, or 2252, 2252A, 2252B, or 2260, or any bok, magazine, periodical, film, videotape, or other matter

which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of these subsections;

- ii. His interest in, if any property, real or personal, constituting or traceable to gross profits or other proceeds obtained as a result of violations of Title 18, United States Code, Sections 2252A(a)(2) and or 2422(b); and
- iii. His interest in, if any property, real or personal, involved in the commission of violations of Title 18, United States Code, Sections 2252A(a)(2) and/or 2422(b).

On November 13, 2017, Defendant entered into a Rule 11 Plea Agreement in which he pleaded guilty to Count One of the Information. As part of his Rule 11 the Defendant agreed, pursuant to 18 U.S.C. § 2253, to forfeit his interest in the following property:

- A Samsung cellular telephone, Model SM-G955U;
- An Inspiron P496 computer;
- A Samsung SSD 850 EVO;
- A Dell Desktop, Model D16M;
- A Western Digital Hard Drive Model WDC WD10EZEX-75M2NA0;
- A Western Digital Hard Drive Model WDC WD40EZRX-00SPEB0;
- A Dell Laptop Model P576;
- A Seagate Hard Drive Model ST500LM000-1EJ162;

- A San Disk Mini SD Card;
- A Western Digital External HD, Model My Passport 0748;
- A San Disk Thumb Drive, Model San Disk Ultra; and,
- A Western Digital External HD, Model My Passport 0810.

NOW THEREFORE, pursuant to 18 U.S.C. § 2253, and based upon Defendant's Rule 11 and guilty plea, the government's unopposed application, and the information in the record,

IT IS HEREBY ORDERED THAT

1. Any and all interest of Defendant in the Subject Property IS HEREBY FORFEITED to the United States for disposition according to law, and any right, title or interest of Defendant and any right, title or interest that his heirs, successors or assigns, have or may have in said Subject Property IS HEREBY AND FOREVER EXTINGUISHED.
2. Upon entry of this Preliminary Order of Forfeiture, pursuant to 21 U.S.C. § 853(n) and Federal Rule of Criminal Procedure 32.2(b) (6), the United States shall publish notice of this Preliminary Order of Forfeiture and of its intent to dispose of the Subject

Property in such manner as the Attorney General may direct, utilizing the internet site, www.forfeiture.gov, for at least thirty consecutive days. The United States may also, to the extent practicable, provide direct written notice to any person or entity known to have an alleged interest in the Subject Property. Said notice shall direct that any person asserting a legal interest in the Subject Property, other than Defendant, may file a petition with the Court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier. The petition shall be for a hearing before the Court alone, without a jury and in accordance with 21 U.S.C. § 853(n), to adjudicate the validity of the petitioner's alleged interest in the Subject Property. Any petition filed by a third party asserting an interest in the Subject Property must be signed by the petitioner under penalty of perjury and must set forth the nature and extent of the petitioner's alleged right, title or interest in the Subject Property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the Subject Property, any additional facts supporting the petitioner's claim, and the relief sought.

3. After the disposition of any motion filed under Federal Rule of Criminal Procedure 32.2(c) (1) (A), and before a hearing on any petition, the United States may conduct discovery in any ancillary proceeding in accordance with the Federal Rules of Civil Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.
4. Following the Court's disposition of any petitions for ancillary hearing, or, if none, following the expiration of the period provided in 21 U.S.C. § 853(n)(2) for the filing of third party petitions, the United States shall have clear title to the Subject Property and shall be authorized to dispose of the Subject Property as prescribed by law.
5. IT IS FURTHER ORDERED that pursuant to Federal Rule of Criminal Procedure 32.2(b) (4) (A), this Preliminary Order of Forfeiture shall become final as to the Defendant upon entry and shall be made part of the sentence and included in the judgment. If no third party files a timely claim, this Order shall become the Final Order of Forfeiture as provided under Federal Rule of Criminal Procedure 32.2(c)(2).

6. IT IS FURTHER ORDERED that the Court shall retain
jurisdiction to enforce this Order and to amend it as necessary
pursuant to Federal Rule of Criminal Procedure 32.2(e).

IT IS SO ORDERED.

/s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: March 7, 2019

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 7, 2019, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(810) 341-9764